MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2015 / 2016 SESSION

UPR4612 – PROFESSIONAL PRACTICE I

(All Sections / Groups)

16 OCTOBER 2015
Reading Time: 03.00 p.m. – 03.15 p.m.
(15 Minutes)

Answering Time: 03.15 p.m. – 06.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper has **2 sections,** consisting of 3 pages with 5 Questions only.

3. **Section A** is **COMPULSORY** and carries 40 marks. In **Section B** attempt **ANY 3** out of **4** questions. All questions in Section B carry equal marks and the distribution of the marks for each question is as given.

4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copies of:
   (i) Legal Profession Act 1976;
   (ii) National Land Code 1965; and
   (iii) Housing Developers (Control and Licensing) Act 1966 and subsidiary legislation.

5. Please write all your answers in the Answer Booklet provided and **highlight** or **underline** all references to cases and statutes.

SECTION A: COMPULSORY

QUESTION 1

Charlotte Teoh had recently acquired a new serviced apartment (hereinafter referred to as 'the property') at the price of RM650,000.00 from Setia Alam Sdn. Bhd. (the developer). She had paid her 10% deposit. The developer referred her to one of their panel of solicitors to handle the sale and purchase agreement. However, she is not very keen to appoint them and approached her hometown friend, Lisa Wong who is a solicitor in her town to handle the preparation of the sale and purchase agreement. She was informed that the strata title of the property is yet to be issued by the authorities and currently the property is to be erected on 2 pieces of Master Titles No. H.S.(D) 114 and H.S.(D) 115, Daerah Gombak, Selangor (hereinafter referred to as `the said Master Titles'). She also managed to obtain a housing loan of RM550,000.00 from Malaysian Building Society Berhad (MBSB) to finance her purchase.

(a) Advise Charlotte Teoh on the sale and purchase process, the loan process and her position with respect to the Legal Profession Act 1976 and related provision.

(30 marks)

(b) Explain the differences between tenancy and lease under the National Land Code 1965.

(10 marks)

(Total: 40 marks)

Continued...

SECTION B: Answer any 3 out of 4 questions.

QUESTION 2

Gajah is an Advocate and Solicitor who acts for Kanchil. Kanchil is being sued by Buaya for the sum of RM80,000.00 for goods sold and delivered. Kanchil informs Gajah that he has no defence and all he wants is to buy time to settle. Gajah therefore contacts Buaya's counsel on the possibility of negotiating a settlement. When the matter comes up for hearing on 20 September 2015, Buaya's counsel informs Gajah that his client is willing to settle by way of 2 instalment payments. The first settlement is payable on 1 October 2015 for RM40,000.00 and the second is on 1 November 2015 for RM40,000.00. Kanchil is also to pay Buaya's solicitors costs. Gajah immediately calls Kanchil on his mobile phone to take instructions. Due to a bad connection and unable to hear clearly, Kanchil informs Gajah to do his best to buy time. Gajah then records consent judgment. Later in the afternoon, Gajah calls Kanchil and provides him the terms of settlement. Kanchil however is furious as he cannot possibly pay within that time.

Discuss the implications of Gajah's conduct and advise Kanchil on what recourse he has, if any.

(Total: 20 marks)

QUESTION 3

KFC is an Advocate and Solicitor who practises as a sole proprietor under the name and style of KFC & Associates. He has offices in Kuala Lumpur (KL), Penang, Kota Baru and Johor Baru. He employs a legal assistant and an office manager in each of his offices to take care of the legal work and the general administration respectively. He himself is stationed in the KL office and visits each of his branch offices once a month to check on the management of the offices. KFC believes in treating his employees well in order to encourage loyalty and performance. As such he pays his legal assistants a basic salary as well as an additional 10% commission on any new briefs they bring to the office. Similarly the office managers are also paid a basic salary and an additional 10% commission for any new clients that they bring to the office. His office managers are all Human Resource Management graduates and are authorised co-signatories on all the cheques, have absolute discretion on the running of the office, including the fees charged and advertising the firm's services. All employees of the firm are also paid an annual bonus depending on the profits of the firm and are treated with annual overseas holiday.

Discuss KFC's actions with reference to the Legal Profession Act 1976, its subsidiary legislation, Bar Council Practice Directions and relevant cases.

(Total: 20 marks)

Continued...

QUESTION 4

Murid, a chambering student, is doing his pupillage with the firm of Messrs. Jaya & Co. One day while attending to a client on a private sale and purchase matter, he sent a letter to the purchaser's solicitors Messrs. Gaya & Co. as follows –

"We hereby undertake to refund the purchase price in the sum of RM250,000.00 in the unlikely event that the transfer cannot be registered for any reason whatsoever."

As neither of the firm's partners were around at that time, Murid signed the letter in the name of the firm and sent it to the purchaser's solicitors Messrs. Gaya & Co. Soon thereafter Murid completed his pupillage and left the firm.

Discuss the legal implications of Murid's letter, in the event that the transfer cannot be registered in favour of the purchaser.

(Total: 20 marks)

QUESTION 5

Cyborg has been in practice for 2 years and intends to set up his own practice. While discussing the matter with a few like-minded young lawyers, the conversation turns to the topic of changing trends in legal practice. Cyborg suggests that they set up a 'virtual' office. They could pool their resources and share the rental of office space, equipment and a receptionist. Their clients could call them for appointments and each could schedule their appointments so as not to clash with each other. They could also sub-let the office space to a company that provide essential legal support services. This way they could minimise overheads and use their sub-tenant's services to take care of their documentation, filing, searches and others.

(a) Advise Cyborg and his friends on the legality of this arrangement with reference to the Legal Profession Act 1976, relevant rules and cases.

(10 marks)

(b) Can the Bar Council take any disciplinary action against Cyborg and his friends should they practise through a 'virtual' office? If so, describe the procedures under the Legal Profession Act 1976 and relevant Rules.

(10 marks)

(Total: 20 marks)

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